

### REMARKS

Consideration of the amendment is respectfully requested. The amendment finds support in the application as originally filed and adds no new matter pursuant to 37 C.F.R. 1.121(f). The amendment are made pursuant to 37 C.F.R. 1.121.

### **STATUS OF CLAIMS**

Claims 1 - 29 are pending in the application; Claims 1, 4, 6 and 8 are currently amended; Claims 20 - 29 have been added; Claims 10 - 19 are cancelled and are drawn to a non-elected group of claims as per the telephone interview on June 12, 2003. The restriction election was made without traverse.

It is believed that no additional filing fees are due; however, should there be an error and additional fees are due, please charge such fees to **DEPOSIT ACCOUNT NO. 02-2872**.

### **DRAWING**

The application was filed with an informal drawing which is acceptable for examination purposes until such time as allowable subject matter is indicated. Upon indication of allowable subject matter, a new FORMAL DRAWING will be filed with the necessary changes incorporated therein.

Rejection under 35 U.S. Code Section 103  
as being unpatentable over Stewart (US 5,322,629)  
in view of Musgrove (US 3,872,002) and  
further in view of Kimmel (US 5,462,666)

Regarding Paragraphs 5 - 6 of the Examiner's action, the Examiner rejected Claims 1 - 3 and 5 - 7 under 35 U.S. Code § 103 as being unpatentable over Stewart '629 in view of Musgrove '002. In Paragraph 7, the Examiner rejected Claims 4, 8 and 9 as being unpatentable over Stewart '629 in view of Musgrove '002 and further in view of Kimmel '666.

Claim 1 has been amended with the limitations of Claim 4 to better clarify Applicant's invention.

As acknowledged by the Examiner, Stewart '629 **does not** teach the use of iron humate for absorbing phosphorous. Therefore, the Examiner relied upon Musgrove '002 for the use of iron humate to absorb phosphorous. Kimmel '666 was relied upon for a teaching of a wetland system, as set forth in Paragraph 7 of the Office Action. The Examiner asserts that iron humate is a well known fertilizer.

Regarding the combination of Stewart '629, Musgrove '002 and Kimmel '666, such combination **does not** teach using the iron humate to fertilize the vegetation in the fluid retention area during the filtering step. In fact, neither Stewart '629 nor Musgrove '002 nor Kimmel '666 teach iron humate, when used to absorb phosphorous, can be or is used simultaneously for fertilizing to promote growth

in the fluid retention area. Instead, the filtering steps of Stewart '629 and Kimmel '666 take place in a generally closed structure with designated outputs.

### **Applicant's Invention**

Applicant recognizes that iron humate both absorbs phosphorous and can serve as a fertilizer. Thus, Applicant created an iron humate filter or liner that can be used in a fluid retention area to promote growth of vegetation in such fluid retention area.

Thus, the claims have been amended to reflect that the filtering and fertilization take place at the same time.

In view of the above remarks, Claim 1 is allowable over Stewart '629 as modified by Musgrove '002 and Kimmel '666

Claims 2 - 9 depend directly or indirectly from Claim 1, thus for the same reasons as stated with regard to Claim 1, Claims 2 - 9 are also allowable over Stewart '629 as modified by Musgrove '002 and Kimmel '666.

Regarding new independent Claim 20, Claim 20 is more comprehensive than Claim 1. Claim 20 adds a limitation directed to lining the fluid retention area with an iron humate liner.

In addition to the remarks set forth above in relation to Claim 1, the combination of Stewart '629, Musgrove '002 and Kimmel '666 **does not** teach lining the fluid retention area with an iron

humate liner.

Claims 21 - 24 depend directly or indirectly from Claim 20, thus for the same reasons as stated with regard to Claim 20, Claims 21 - 24 are also allowable over Stewart '629 as modified by Musgrove '002 and Kimmel '666.

Regarding new independent Claim 25, Claim 25 adds an additional limitation, to those of Claim 1, to clarify that the *"filtering the fluid runoff, while in said fluid retention area, through iron humate to absorb phosphorous from the fluid runoff with the iron humate to create filtered fluid runoff."* (Emphasis added) An advantage of Applicant's iron humate filters and liner is that the iron humate is not enclosed in housings that do not permit water to, in general, freely flow therethrough. Thus, the filtering and fertilizing take place in the fluid retention area while the water is in the retention area.

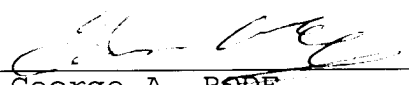
For these reasons, Claim 25 is allowable over the prior art of record, namely, the combination of Stewart '629, Musgrove '002 and Kimmel '666.

Claims 26 - 29 depend directly or indirectly from Claim 25, thus for the same reasons as stated with regard to Claim 25, Claims 26 - 29 are also allowable over Stewart '629 as modified by Musgrove '002 and Kimmel '666.

## CONCLUSION

Based on the above amendment and remarks, it is submitted that all of the claims remaining in the case are allowable and an early Notice of the same is respectfully solicited. If the Examiner feels a telephone conference will in any way expedite the disposition of this matter, he is respectfully invited to contact this attorney at (504) 861-8288.

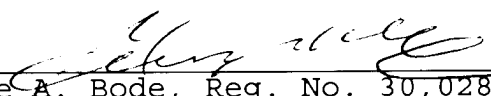
Respectfully submitted,  
Larry MADRID, Applicant

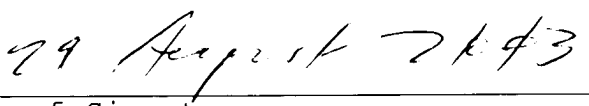
  
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I hereby certify that this correspondence is being deposited in the United States Postal Service as first class mail in an envelope addressed to:

The Honorable Commissioner of Patents  
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on August 29, 2003.

  
George A. Bode, Reg. No. 30,028  
Applicant's Registered Representative

  
Date of Signature